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7
8 **BEFORE THE**
RESPIRATORY CARE BOARD
9 **DEPARTMENT OF CONSUMER AFFAIRS**
10 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

12 VINCENT CRAIG JOHNSON
13 352 S. Ironwood Street
Rialto, CA 92376

14 Respiratory Care Practitioner License
15 No. RCP 10527

16 Respondent.

Case No. R-1899

OAH No. L2004100474

**DEFAULT DECISION
AND ORDER**

[Gov. Code, §11520]

17
18 **JURISDICTION**

19 1. On or about May 19, 2004, Complainant Stephanie Nunez, in her official
20 capacity as the Executive Officer of the Respiratory Care Board, filed Accusation No. R-1899
21 against VINCENT CRAIG JOHNSON (Respondent) before the Respiratory Care Board.

22 2. On or about September 22, 1986, the Respiratory Care Board (Board)
23 issued Respiratory Care Practitioner License No. 10527 to Respondent. The Respiratory Care
24 Practitioner License expired on June 30, 2002, and has not been renewed.

25 **CURRENT LICENSE STATUS**

26 3. On May 19, 2004, the Board filed Accusation no. R-1899 against
27 Respondent, based on his September 29, 2003, conviction of Penal Code section 311.11(a),
28 possession of child pornography, a misdemeanor. The Court withheld pronouncement of

1 judgment and granted respondent a conditional and revocable release for two years and ordered
2 respondent to pay fines of \$461.00.

3 **DISCIPLINARY HISTORY**

4 4. On or about May 19, 2004, Jennifer Porcalla, an employee of the
5 Complainant Agency, served by Certified Mail a copy of the Accusation No. R-1899, Statement
6 to Respondent, Notice of Defense, Request for Discovery, and Government Code sections
7 11507.5, 11507.6, and 11507.7 to Respondent's address of record with the Board, which was and
8 is 352 S. Ironwood Street, Rialto, CA 92376. A copy of the Accusation, the related documents,
9 and Declaration of Service are attached as **Exhibit A**, and are incorporated herein by reference.

10 5. Service of the Accusation was effective as a matter of law under the
11 provisions of Government Code section 11505, subdivision (c).

12 6. On or about June 3, 2004, Respondent signed and returned a Notice of
13 Defense, requesting a hearing in this matter. A Notice of Hearing was served by mail at
14 Respondent's address of record and it informed him that an administrative hearing in this matter
15 was scheduled for August 10, 2005. Respondent failed to appear at that hearing. A copy of
16 Respondent's Notice of Defense, the Notice of Hearing, and Declaration of Service are attached
17 hereto as **Exhibit B**, and are incorporated herein by reference.

18 7. Government Code section 11506 states, in pertinent part:

19 "(c) The respondent shall be entitled to a hearing on the merits if the
20 respondent files a notice of defense, and the notice shall be deemed a specific
21 denial of all parts of the accusation not expressly admitted. Failure to file a notice
22 of defense shall constitute a waiver of respondent's right to a hearing, but the
23 agency in its discretion may nevertheless grant a hearing."

24 8. California Government Code section 11520 states, in pertinent part:

25 "(a) If the respondent either fails to file a notice of defense or to appear at
26 the hearing, the agency may take action based upon the respondent's express
27 admissions or upon other evidence and affidavits may be used as evidence without
28 any notice to respondent."

9. The certified court documents pertinent to respondent's conviction are attached hereto as **Exhibit C**, and are incorporated herein by reference.

10. Pursuant to its authority under Government Code section 11520, the Board finds Respondent is in default. The Board will take action without further hearing and, based on Respondent's express admissions by way of default and the evidence before it, contained in Exhibits A, B and C, finds that the allegations in Accusation No. R-1899 are true.

11. The Respiratory Care Board further finds that pursuant to Business and Professions Code section 3753.5, the costs of investigation and enforcement of the case prayed for in the Accusation total \$5,036.50, based on the Certification of Costs contained in **Exhibit D**.

FINDINGS OF FACT

I

Stephanie Nunez is the Executive Officer of the Respiratory Care Board and made the charges and allegations contained in the Accusation solely in her official capacity.

II

The Board issued respondent VINCENT CRAIG JOHNSON, Respiratory Care Practitioner License No. 10527 on September 22, 1986. The Respiratory Care Practitioner License was in full force and effect at all times relevant to the charges brought herein and has expired on June 30, 2002, and has not been renewed.

III

On or about September 29, 2003, in a criminal proceeding entitled People v. Vincent Craig Johnson, in Superior Court, San Bernardino County, Fontana Judicial District, Case No MVA040937, Respondent was convicted upon his plea of guilty to the crime of possession of child pornography, a misdemeanor, a violation of Penal Code section 311.11(a).

The certified court documents pertinent to respondent's conviction have been considered by the Board. **(Exhibit C.)**

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DETERMINATION OF ISSUES

Based on the foregoing findings of fact, the Board makes the following
determination of issues:

I

Finding of Fact III establishes that respondent’s conduct constitutes a violation of
code sections 3750 subdivision (d), 3752, 490, and 3752.6 of the Code, California Code of
Regulations, Title 16, section 1399.370 subdivision (e) (conviction of a crime).

II

Complainant has incurred \$5,036.50 in cost of investigation and enforcement of
this action pursuant to complainant’s cost declaration, Exhibit D. Complainant is entitled to
recover said cost pursuant to code section 3753.5.

1 **ORDER**

2 IT IS SO ORDERED:

3 1. Respiratory Care Practitioner License No. 10527, heretofore issued to
4 Respondent VINCENT CRAIG JOHNSON, is revoked.

5 2. Respondent is ordered to reimburse the Respiratory Care Board the amount of
6 \$5,036.50 for its investigative and enforcement costs. The filing of bankruptcy by Respondent
7 shall not relieve Respondent of his responsibility to reimburse the Board for its costs.
8 Respondent's Respiratory Care Practitioner License may not be renewed or reinstated unless all
9 costs ordered under Business and Professions Code section 3753.5 have been paid.

10 Pursuant to Government Code section 11520, subdivision (c), Respondent may
11 serve a written motion requesting that the Decision be vacated and stating the grounds relied on
12 within seven (7) days after service of the Decision on Respondent. The agency in its discretion
13 may vacate the Decision and grant a hearing on a showing of good cause, as defined in the
14 statute.

15 This Decision shall become effective on January 5, 2006.

16 It is so ORDERED December 6, 2005.

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18 Original signed by:
19 FOR THE RESPIRATORY CARE BOARD
20 DEPARTMENT OF CONSUMER AFFAIRS
21 LARRY L. RENNER, BS, RRT, RCP,
22 RPFT, RCB PRESIDENT

23 Attachments:

24 Exhibit A: Accusation No. R-1899, Related Documents and Declaration of Service
25 Exhibit B: Notice of Defense, Notice of Hearing, and Declaration of Service
26 Exhibit C: Conviction Documents
27 Exhibit D: Certificate of Costs
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